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Reply to Las Vegas

September 25, 2024

VIA HAND DELIVERY

The Honorable Mike K. Nakagawa
United States Bankruptcy Court
District of Nevada
300 Las Vegas Boulevard South
Las Vegas, Nevada 89101

Re: *In re Cash Cloud, Inc. dba Coin Cloud*
(Bankr. D. Nev. Adv. Case No. 23-10423)

Dear Judge Nakagawa:

We write on behalf of the Official Committee of Unsecured Creditors (the “Committee”) in the above-referenced chapter 11 case. This communication is made pursuant to Local Rule IA 7-1 of the Local Rules of Practice of the United States District Court, District of Nevada, made applicable to the chapter 11 case by Local Rule 1001 of the Local Rules of Practice of the United States Bankruptcy Court, District of Nevada. Service of this correspondence is being contemporaneously mailed to all other attorneys, as specifically required by LR IA 7-1, and as reflected by the below Certificate of Service.

The Surcharge Motion

On July 24, 2023, Cash Cloud, Inc. dba Coin Cloud (“Debtor”) filed its *Motion for Entry of an Order Authorizing Debtor to Surcharge the Collateral of Genesis Global Holdco, LLC, Enigma Securities Limited, and AVT Nevada, L.P.* [ECF No. 926] (the “Surcharge Motion”). The Surcharge Motion sought entry of an order authorizing the expenses, fees and costs incurred by the Debtor in connection with the postpetition maintenance, marketing, auctioning and disposition of certain collateral (collectively, the “Collateral”), as well as all other fees and expenses it claims were incurred for the benefit of Genesis, Enigma (collectively, the “Secured Creditors”) and AVT Nevada, L.P. (“AVT”) ¹ to preserve and dispose of the Collateral (collectively, the “Surcharged Expenses”), estimated to be in an amount not less than \$2,098,2142 to be surcharged against the Collateral in accordance with section 506(c) of the Bankruptcy Code.

¹ Subsequent to the filing of the Surcharge Motion, the Debtor, Committee and AVT reached a settlement in principle.

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On September 1, 2023, Genesis, Enigma, and AVT filed their respective objections to the Surcharge Motion [ECF Nos. 1160, 1162, 1163]. On September 15, 2023, the Debtor filed its *Omnibus Reply in Support of the Surcharge Motion* [ECF No. 1243]. On the same day, the Committee filed its *Joinder to the Surcharge Motion* [ECF No. 1246].

The Standing Motion

On July 24, 2023, the Committee filed its *Motion for Derivative Standing* [ECF No. 925] (the “Standing Motion”). The Standing Motion sought derivative standing to commence, prosecute, and if appropriate, settle (i) claims for avoidance of security interests in certain Collateral of Enigma that the Committee claims are unperfected (the “Lien Challenge Claims”); and (ii) claims to recharacterize the adequate protection payments received by Enigma and Genesis as payments on principal to the extent such amounts received exceed any diminution in value (the “Recharacterization Claims” and together with the Lien Challenge Claims, the “Preserved Claims”). On August 22, 2023, Enigma filed its objection the Standing Motion [ECF No. 1112]. On September 18, 2023, the Committee filed its reply in support of the Standing Motion [ECF No. 1254].

The Admin Expense Application

On July 18, 2023, Enigma filed its *Application for Allowance and Payment of Administrative Expense Claim Pursuant to 11 U.S.C. §§ 361, 362, 363, 364, 503, 507, and Bankruptcy Rules 3012 and 8002* [ECF No. 873] (the “Admin Expense Application”). The Admin Expense Application sought allowance and payment of an administrative expense claim on account of (i) adequate protection payments owed by the Debtor to Enigma for June 2023, which Enigma has not yet received, as well as any other adequate protection payments that become due and owing prior to the effective date of a chapter 11 plan or the dismissal of this chapter 11 case; and (ii) any diminution in value of the Enigma Collateral owed to Enigma and for which the Debtor agreed to provide adequate protection that proved to be insufficient to protect Enigma’s interests. On August 1, 2023, the Debtor filed its objection to the Admin Expense Application [ECF No. 987]. On September 18, 2023, Enigma filed its reply in support of the Admin Expense Application [ECF No. 1251].

Subsequent Proceedings

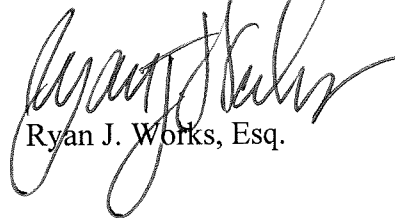
On October 16, 2023, this Court held a trial on the Surcharge Motion, the Standing Motion, and the Admin Expense Application (collectively, the “Motions”). The Debtor, the Committee, and the Secured Creditors each gave opening and closing statements and presented evidence concerning the Motions. At the conclusion of that trial, the Court took the Motions under submission for consideration and issuance of a written decision by the Court.

As it has been over ninety days since the Motions were taken under submission, the Committee respectfully inquires as to the status of the forthcoming written decision on the Motions, as provided by LR IA 7-1.

We thank you for your continued attention to this matter.

Respectfully submitted,

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